

STATE OF MONTANA  
DEPARTMENT OF LABOR AND INDUSTRY  
BEFORE THE BOARD OF PERSONNEL APPEALS

IN THE MATTER OF THE UNFAIR LABOR PRACTICE, CHARGE NO. 27-2010

BRADFORD WILSON,

Complainant,

- vs -

PARK COUNTY and INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS, No. 2,

Respondents.

**FINAL ORDER**

**INTRODUCTION**

On February 11, 2010, Bradford Wilson (Wilson), appearing *pro se*, filed an unfair labor practice (ULP) charge against Park County and the International Brotherhood of Teamsters, Local No. 2 (Union) with the Board of Personnel Appeals (Board). In Wilson's charge, he asserted that both Park County violated Section 39-31-401, MCA, and that the Union had violated Section 39-31-402, when they failed to bargain in good faith regarding a reduction in his wages.

The Board investigator investigated the charges and issued a recommendation to the Board to dismiss the charge without merit. Wilson appealed to the Board. The matter came before the Board on September 24, 2010, for oral argument. At this Board hearing, Bradford Wilson, appeared (represented by Shelia Royston), Shannon Piccolo appeared on behalf of Park County, and Jim Stone, appeared on behalf of the Union

**ARGUMENT**

In arguments before the Board, Wilson's representative asserted that a working class person's wages are his property and the Board should only accept the most compelling reasons to allow an employer to unilaterally reduce wages pending the formation of the union. The lack of good faith bargaining between the Union and Park County has resulted in the reduction of Wilson's wages. Wilson contends the evidence establishes that the employer provided the Union false information and, in turn, the

Union acted on this misinformation. It is Wilson's position that the starting point of the investigator's investigation was based on false information and therefore the entire finding is unreliable.

In response, the Union argued that it has acted in good faith on behalf of Wilson's unit. In a bargaining session, Park County informed the Union that Wilson had refused or declined the road supervisor position, but had been receiving a supervisor's wages. Given this discrepancy, the Union contacted Wilson and advised Wilson of the impending wage reduction. After that, the Union had no contact with Wilson. As for the Respondent, Park County, it argues that there is no assertion that the merit of the finding of "no merit" is incorrect. Instead, Wilson is arguing that the investigator acted improperly. But, in reviewing Wilson's submissions, Wilson fails to support this contention.

## **ANALYSIS**

After reviewing the record and considering the arguments of the parties, the Board deliberated and affirmed the decision to dismiss the ULP.

As a threshold issue, the Board is unaware of any instance in which an individual has been allowed to become a "party" to the bargaining process between an exclusive representative and an employer. Looking at the controlling statute, Section 39-31-305, MCA, the statute states that "the public employer and the exclusive representative. . . have the duty and the authority to bargain collectively. This duty extends to the obligation to bargain collectively in good faith." The intent of the statute was to place the burden of bargaining in good faith on the participants in the bargaining process, namely the exclusive representative and the employer. Here, as noted in the investigative report, neither Park County nor the Union have made the assertion that the other failed to bargain in good faith.

The Board finds an individual union member or an individual public employee does not have the standing to bring an unfair labor practice against either the exclusive representative or an employer based on a failure to bargain in good faith.

Additionally, after careful and due consideration of the record, the Board finds that it could not issue a notice of hearing in this matter because Wilson's ULP is untimely. As expressly stated in Wilson's original complaint, in Wilson's amended complaint, and in response to questioning from the Board, Wilson contends that Park County and the Union failed to bargain in good faith during a bargaining session "on July 14, 2009." Wilson's complaint was received and filed with the Board on February 11, 2010. By statute, the Board may not issue a notice of hearing "based upon any unfair labor practice more than six months before the filing of a charge" with the Board. *Mont. Code Ann. § 39-31-404; Admin. R. Mont. 24.26.680(1)*. Six months from July 14, 2009, is January 14, 2010. For this reason, the Board dismisses this complaint.

Accordingly, the Board hereby incorporates the findings of the investigative report and dismisses Charge No. 27-2010, for no merit for the reasons asserted above, pursuant to Section 39-31-405(2), MCA.

DATED this 13~~A~~ day of October, 2010.

BOARD OF PERSONNEL APPEALS

By:

  
Jack Holstrom, Presiding Officer

Board members Nyman, Johnson, Dudley, and Thiel concur.

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NOTICE: You are entitled to Judicial Review of this Order. Judicial Review may be obtained by filing a petition for Judicial Review with the District Court no later than thirty (30) days from the service of this Order. Judicial Review is pursuant to the provisions of Section 2-4-701, et seq., MCA.

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CERTIFICATE OF MAILING

I, Wendy Knutson, do hereby certify that a true and correct copy of this document was mailed to the following on the 13~~A~~ day of October 2010:

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